

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
IN AND FOR UTAH COUNTY, STATE
OF UTAH.

PROVO RESERVOIR COMPANY,) No. 2888 Civil
a corporation,) Contempt Proceeding
Plaintiff,)
vs.) Copy of Part of Testimony of
PROVO CITY, et al,) T.F.WENTZ given in behalf of
Defendants,) Plaintiff Provo Reservoir Com-
pany, a corporation, in above
entitled Cause, June 7, 1916,
Found in Vol. I. of Official
Transcript of the Evidence
given in said Cause, Pages 114,
127-128.

T.F.WENTZ, called by the plaintiff, being duly
sworn, testifies as follows:

(June 7, 1916, A.M.)

DIRECT EXAMINATION by Mr. Jacob Evans.

Q Where do you live?

A Provo.

Q What is your business?

A Civil engineer.

Q How long have you been engaged as civil engineer?

A I have been practically since 1900.

Q Are you the water commissioner of this court?

A Yes sir.

Q When were you first appointed?

A On this case or the other cases?

Q Just tell the court what experience you have had with Provo
River?

A This is my fourth year on the Provo. I have been appointed in
July, 1913, by Judge Morgan under the Chidester and Morse
decrees. In 1914 I served under the lower division. Mr.

Deming was the general commissioner and I was appointed over the whole river in 1915, spring of 1915, and served last year, and serving at the present time. Stipulation is still in court.

Q. You were unanimously elected as the commissioner this year?

A Yes sir.

June 7, 1916, P.M.

T. F. WENTZ - - - - -

DIRECT EXAMINATION by Mr. Jacob Evans continued.

Q Mr. Wentz, you said you took as the basis of your distribution for the year 1915 288 and a fraction second feet of water, was that correct?

A 288.4 to the different companies in the Utah Valley. The stipulation called for 17,960 minute feet or 299.33 second feet.

Q Where then did the balance --

A Measuring at the watering gates of the parties using water in Utah County under former decrees of this court. That included the Morse decree and Chidester decree. The Chidester decree included some rights in the Provo Canyon above the mouth of the Provo Canypm.

Q What where they?

A Some rights in the south fork of the Provo Canyon, of which John D. Dixon purchased the J. H. Snyder right, 40 minute feet The J.J. Mecham right of 20 minute feet, J. W. Hoover 100 minute feet and Hyrum Heiselt 8 minute feet. This amount was stipulated as to be turned to John D. Dixon in the Utah

Valley here, as $2\frac{1}{2}$ second feet. And there remained in those rights above the Canyon the Hyrum Heiselt one minute feet, Spring Dell Resort Company 60 minute feet, George Duke 30 minute feet, J.J.Mecham 40 minute feet, C.S.Conrad 74, J. R. Hooks, 30, J. W. Hoover 14, South Fork Cattle Company 22, George Taylor 16 minute feet, Wright Estate 120 minute feet, and the Blue Cliff 69 minute feet. Of this amount John D. Dixon was entitled to $2\frac{1}{2}$ second feet, Hyrum Heiselt and the others in the canyon were entitled to 5.28 second feet. The Provo Reservoir Blue Cliff title was 1.15 minute feet, and by the stipulation the Provo Reservoir Company was allowed 2 second feet of water from the Wright ranch title, making a total of 10.93 second feet or rights above the mouth of the canyon, and rights to be diverted through the Provo Reservoir Company leaving the amount 288.4 second feet to be reserved for the defendant in the Utah Valley.

Q That made a total then of 299.33 second feet?

A Yes.

Q Now why did you take that as a basis for the distribution?

A The stipulation ordered that.

Q Any others?

A A few small jobs.

Q You have been accustomed to measuring water?

A Yes.

Q In capacity of canals and irrigating ditches? A. Yes.

Q During the entire period of ten years that you have been engaged in your work?

A I would say during the last seven years.

Q Are you acquainted with what is known as the Blue Cliff Canal?

A Yes.

Q Have you a plat or drawing showing the relative position of that canal with the Provo River?

A Yes.

Q Have you that with you?

A This is it.

Q Marked Plaintiff's Exhibit 44. You may show on this the intake of the canal and the point at which it reaches the irrigated land?

A The exact location of the intake is not shown on this. Approximately in here.

Q That is at the right hand side --

A Yes, at the extreme right of the plat. The yellow line is the Blue Cliff Canal line, and the point where it reaches the Provo Bench, or the place where it begins serving the farming district is at the left of the map here.

MR. RAY: There is no point marked there to indicate that.

MR. A.C.HATCH: Mark it at the point.

A At the point "X".

Q What does the blue line indicate?

A Provo River.

Q And has the plat marked upon it a scale in miles or rods?

A It has not.

Q What is the scale upon which it is drawn, is it a uniform scale?

A Yes, it is uniform, the section.

Q The squares there indicate mile squares?

A Yes, they indicate one-half mile squares.

Q Half mile squares?

A Yes.

MR. RAY: Quarter sections?

A Quarter sections.

Q Have you at any time measured that canal?

A Yes.

Q Can you give the dimensions of cross-section?

MR. COREMAN: Object to it as immaterial, unless time is fixed.

A I measured the canal--

MR. A.C.HATCH: Just a moment, there is an objection.

MR. COREMAN: We object to it as immaterial unless the time is fixed.

THE COURT: You may fix the time.

Q When?

A Saturday last.

THE COURT: Proceed with your answer.

A I measured the canal at four different points, two points, at the place here marked "Upper section."

MR. RAY: Two measurements there you say?

A Yes, and two measurements at the point marked "Lower section."

Q What was the cross section?

A The cross section of the first place measured at the upper section was six foot bottom width; lower side slope of 2.9 in two feet and upper side slope of 3.6 in three feet. Height of the bank, lower bank was 2.05 feet. At the second point in the upper section the bottom width was six feet. The lower side slope 3.2 in two feet. The upper side slope 3.5 in three feet. The height of the lower bank was 2.85 feet. The first point in the lower section, the bottom width was six feet. The lower side slope four feet in three or four in three, the upper side slope was four in three, the bank, lower bank, was 2.5 feet high. The second section bottom width was 5.8 feet, the lower slope was three in two, and the upper slope 2.5 in two. The lower bank was 2.3 feet high.

Q Did you take the grade of the ditch?

A Yes.

Q What was the grade?

MR. RAY: At what point?

A I took the grade throughout the upper section, and also throughout the lower section. The grade of the lower section was 4.2 feet per thousand. The grade of the upper section was 2.6 feet per thousand.

Q What was the capacity of that canal?

MR. RAY: Object to it upon the ground it does not appear this witness is qualified to testify to the capacity of that canal from the measurements made. He has made two measurements over considerable length and capacity is the water it will carry at the smallest point.

THE COURT: I take it he is asking for the capacity at the point at which he measured.

MR. RAY: If he will limit it to that.

THE COURT: The Court will consider it so because not having measured it any other place he could not testify to the capacity at any other point. I understand that is what you are asking for.

MR. A.C. HATCH: Yes, that is all he could testify to.

A The capacity at the lower section the first point measured would vary between 37.2 second feet to 44.4, depending upon the coefficient used in figuring the capacity. The coefficient varied between normal or average conditions and bad conditions of canal section. The capacity figured at the second point measured in the lower section was between 38.1 and $45\frac{1}{2}$. The capacity of the first section in the upper section was 29.4 to 36.

Q Second feet?

A Yes, cubic feet per second. And second section of that section is 28.9 to 35.4.

Q Now, in taking these cross sections I will ask whether or not you went along the canal the entire distance shown there on the plat?

A Yes.

Q And state whether or not the places you selected for measurement were the places narrowest and of least capacity or whether they were average, if you know?

A The places selected were of the least capacity. Biggest part of the canal is filled in and impossible of access to measurement and the places selected were those that appeared to have the original section and these four sections measured were the smallest of these.

Q So far as the canal was at that time exposed?

A Yes.

Q So that it could be measured. Do you know when the canal was last used to convey water?

A No.

Q Has it been used, have you had any knowledge of it, for the past three or four years?

A No.

Q You may state whether or not its appearance indicated that it has been used or not used within a number of years?

A It appeared to not have been used for a considerable length of time. It is filled in more or less nearly the entire length of it.

Q Have you a knowledge of the Provo Reservoir Company's system of canals and laterals?

A Yes.

Q Have you a plat showing those canals and laterals?

A I have a plat showing the main canals.

Q With reference to its geographical position in Utah and Salt Lake Counties?

A Yes.

Q Is that it?

A Yes.

Q Before going into that I will ask a question or two touching the Blue Cliff Canal, question or two further, have you ever been acquainted with this Blue Cliff Canal prior to the time you made these measurements?

A Yes.

Q How long ago?

A The first time I can remember, I think it was in 1907

Q Was the water flowing in it at that time?

A No.

Q Do you know anything as to any spring water arising in the canal of being developed by the canal at any point along its course?

MR. RAY: I object to that as calling for a conclusion of the witness as to what is developed water in the canal?

MR. A.C. HATCH: I put it in two ways, arising in the canal or developed in the canal.

Mr. RAY: It is the latter question I object to.

MR. A.C. HATCH: He can answer yes or no, it is only preliminary.

THE COURT: He may answer and then you can cross examine him as to his knowledge if you desire, and source of his knowledge.

A Yes.

Q At what point on the canal did this water occur, at the upper or lower point of measurement, upper or lower section to which you have referred in your testimony?

A It occurred between the upper and the lower section.

Q Do you know whether or not that water had been turned to the Provo Reservoir Company by the water commissioner during the past -- at any time during the past?

A Yes, I know on one occasion.

Q When was that?

A In 1913, I think.

Q Who was the water commissioner?

A Frank Wentz.

Q Do you know what the quantity of water was at that time?

A No, I don't remember.

Q It was measured was it not?

A Part of the water was measured, yes.

Q The whole of it was turned to the Provo Reservoir Company, or only a part of it?

A The whole of it.

Q Do you know whether or not it was ver turned by any commissioner other than Mr. Wentz?

A It was turned by Mr. Wentz' predecessor, Mr. Farrer.

Q When was that?

A During 1912.

Q I didn't get your answer.

A During 1912 season.

Q Do you know the measurement or quantity was at that time?

A I don't think it was measured, I think it was estimated.

Q Do you know whether it was estimated as to the quantity?

MR. RAY: I object to that as calling for a conclusion of the witness, as to the estimate of some person, and hearsay.

MR. A.C. HATCH: I am not asking him what it was yet, but if he knows whether or not it was estimated.

MR. RAY: Object to that as immaterial what somebody else estimated.

THE COURT: I take it the question is as to whether it was an actual measurement made or whether there wasn't. If he knows, he may state. The statement it was estimated is merely a statement it was not measured, I take it. He may answer the question with that understanding of its purport.

A. Yes, I know that it was estimated?

Q By whom?

A Mr. Farrer.

Q What position did Mr. Farrer hold as water commissioner, that is, by whom was he appointed?

A By the district court, I think.

Q Under one of the decrees entered here?

A Yes.

Q And was he acting as such commissioner at this time to which you refer?

A Yes.

Q Where were you with him at the time?

A No.

Q Did you make any estimate at any time of the quantity of that water turned by Mr. Farrer to the Provo Reservoir Company?

A I don't remember.

Q Have you made at any time an estimate of the quantity of that water, looked at it so as to judge of the quantity?

A Yes.

Q When?

A About a year ago.

Q The water to which I am referring is the water that had arisen in or developed by the Blue Cliff Canal, and runs along the canal, is that the same water to which you are referring?

A That is not the water that I have been referring to, about making the measurements. There are several springs there, some rise a little above and some in the canal.

Q Yes.

A And they commingle and the measurements were made of all the springs.

Q All the water?

A Yes.

Q That would include what rises in or developed by the canal, and also the springs that find their way into the canal and run along?.

A Yes.

Q What is your judgment of the quantity of that water, your estimate?

MR. RAY: Your honor please, I understand the witness to say he made a measurement, if he made a measurement his judgment is immaterial, his measurement is material.

Q Did you make a measurement?

A No, I did not.

MR. RAY: He stated he did.

MR. A.C.HATCH: I didn't so understand the witness.

THE WITNESS: I was present when Mr. Wentz made the measurement, but I don't remember the quantity.

Q What was the length of canal upon which you made your observations at the time you took the cross sections to which you have testified, Blue Cliff Canal?

A The total length was sixteen hundred feet.

Q That you observed at that time?

A Yes.

Q What was its condition at that time compared with what it was when you saw it several years ago, that particular section that you have observed at the time you made the measurement?

A The section that I refer to, this sixteen hundred foot section, that is the two sections total that.

Q Yes.

A Seem to be in fairly good state of preservation. The canal, the rest of the canal was with the exception of one or two small sections was nearly entirely filled in.

Q Now referring to plaintiff's Exhibit 45, you may point out to the court --

MR. RAY: Has that exhibit ever been offered in evidence? neither 44 or 45 offered in evidence.

MR. A.C.HATCH: We will offer them later.
